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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/759,256

01/20/2004

Emmanuel Conseiller

ST98033

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29693

7590

04/21/2008

WILEY REIN LLP  
1776 K. STREET N.W.  
WASHINGTON, DC 20006

EXAMINER

DUFFY, BRADLEY

ART UNIT

PAPER NUMBER

1643

MAIL DATE

DELIVERY MODE

04/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/759,256	1/20/2004	Peters	

**EXAMINER**

Brad Duffy

**ART UNIT****PAPER**

1643

20080417

**DATE MAILED:**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

## Notice of Non-Responsive Amendment

1. Applicant made a bona fide response on January 28, 2008 to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed January 8, 2008. However, the following deficiencies are still noted:

The amendment filed January 28, 2008, is non-responsive for the following reason:

In this case, the Notice of Non-Responsive Amendment mailed January 8, 2008 indicates that the amendment to the specification filed November 9, 2007 is non-compliant because of "e.g., the amendments to the specification made on page 2 of the response filed November 9, 2007 to page 26 which fail to show each and every change made relative to the immediate prior version". However, Applicant's response filed January 28, 2008 was not full responsive because it only presents claim amendments.

To further explain why the amendment to the specification filed November 9, 2007 is non-compliant, 37 CFR § 1.121, section (1) sets forth the following:

Amendments to the specification, including amendment to a section heading or the title of the invention which are considered for amendment purposes to be an amendment of a paragraph, must be made by submitting:

- (i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs;
- (ii) The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived.

Not provided for by the rule are amendments to the specification made by deleting an entire paragraph, only to replace it with an

amended version without showing how the original version of the paragraph has been changed.

Accordingly, appropriate correction remains required.

Additionally, as a courtesy, while the amendment filed January 28, 2008, does not fully respond to the Notice of Non-Complaint Amendment, the Examiner has reviewed the claim amendment filed January 28, 2008 and determined that the amendment to the claims filed January 28, 2008 is non-compliant because it fails to show each and every change that has been made relative to the immediate prior version; see, e.g., claims 85 and 95. For example, in the immediate prior version of the claims, i.e., the claims filed 1/20/2004, claim 85 recited "SEQ ID NO: 9", yet in claim 85 filed 1/28/2008, "9" is no longer recited, but this change was not properly marked. Then claim 95, recited, in the immediate prior version, "A method of using of a polypeptide"; yet claim 95 filed 1/28/2008 recites "A method of using a polypeptide" without properly indicating that the second "of" was removed. Therefore, while the amendment filed January 28, 2008 now shows some more of the changes that were made to relative to the immediate prior version, it fails to show all of them as required. Appropriate correction is required.

2. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brad Duffy whose telephone number is (571) 272-9935. The examiner can normally be reached on Monday through Friday 7:00 AM to 4:30 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on (571) 272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/bd/

Examiner, Art Unit 1643

April 17, 2008

/Stephen L. Rawlings/  
Primary Examiner, Art Unit 1643